

House Bill 1223 (AS PASSED HOUSE AND SENATE)

By: Representatives Brown of the 69<sup>th</sup>, Cooper of the 41<sup>st</sup>, O'Neal of the 146<sup>th</sup>, Coleman of the 144<sup>th</sup>, Epps of the 128<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards of health, so as to revise certain provisions relating to contracts between county boards and authorization for and provisions applicable to a county board of health serving as a community service board; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to revise and add certain definitions relating to community service boards; to revise certain provisions relating to the designation of boundaries for mental health, developmental disabilities, and addictive diseases regions; to revise certain provisions relating to the creation, membership, participation, powers, and bylaws of community mental health, developmental diseases, and addictive diseases service boards; to revise certain provisions relating to the program director, staff, budget, and facilities of community service boards; to provide for the ceasing of operations of a community service board; to revise certain provisions relating to director's emergency powers upon failure of community service board to establish and administer progress; to revise certain provisions relating to allocation of available funds for services; to provide for statutory construction; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards of health, is amended by striking Code Section 31-3-12.1, relating to contracts between county boards and authorization for and provisions applicable to a county board of health serving as a community service board, in its entirety and inserting in its place the following:

"31-3-12.1.

(a) In addition to any other power authorized by law, the county governing authority may authorize the county board of health to enter into a contract with the department or a

1 community mental health, developmental disabilities, and addictive diseases service board  
2 created under Chapter 2 of Title 37 to provide certain mental health, developmental  
3 disabilities, and addictive diseases services based on the contractual agreement between the  
4 parties. Further, a county governing authority may authorize a county board of health,  
5 wherever applicable, to serve as the community mental health, developmental disabilities,  
6 and addictive diseases service board, provided that the county governing authority, the  
7 board of health, and any other affected county governing authority acts pursuant to  
8 subsection (e) of Code Section 37-2-6. In the event that the county governing authority  
9 exercises the authority granted by this Code section subsection, Chapter 2 of Title 37, or  
10 Code Section 37-2-6, the county board of health shall appoint a director for mental health,  
11 developmental disabilities, and addictive diseases or a supervisor of the specific service  
12 which is being provided by the county board of health, whichever is applicable, who shall  
13 meet the requirements established by this Code section subsection. The director for mental  
14 health, developmental disabilities, and addictive diseases, or the service supervisor, shall  
15 not be required to be a physician and shall be a person other than the director of the county  
16 board of health appointed pursuant to Code Section 31-3-11. Further, such director for  
17 mental health, developmental disabilities, and addictive diseases or such supervisor of the  
18 specific service shall report directly to the community service board or the county board  
19 of health, whichever is applicable, and shall have no formal reporting relationship with the  
20 director of the county board of health.

21 (b) Pursuant to subsection (e) of Code Section 37-2-6, a county governing authority may  
22 authorize the membership of a county board of health to serve as the membership of a  
23 community mental health, developmental disabilities, and addictive diseases service board,  
24 provided that the county governing authority, the county board of health, and any other  
25 affected county governing authority act pursuant to subsection (e) of Code Section 37-2-6.  
26 If the membership of a county board of health exercises the authority granted pursuant to  
27 this Code section subsection and Chapter 2 of Title 37 to serve as the membership of a  
28 community service board, the membership of the county board of health shall constitute the  
29 membership of the community service board and, at any time that such members are  
30 exercising duties and powers related to mental health, developmental disabilities, and  
31 addictive diseases, the community service board shall be an independent agency and shall  
32 operate in accordance with the provisions of Title 37 as a community service board.  
33 Notwithstanding any provisions of law to the contrary, a community service board and a  
34 county board of health which have the same membership may contract with each other,  
35 provided that any such contract is approved by the department prior to adoption."

**SECTION 2.**

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by striking paragraphs (4) and (20) of Code Section 37-1-1, relating to definitions regarding general provisions relative to mental health, in their entirety and inserting in their respective places the following:

"(4) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6 ~~which provides one or more mental health, developmental disability, and addictive disease services through contract with the department. Such community service board may enroll with the department to become a provider of specific mental health, developmental disability, and addictive disease services with such services being negotiated and contracted annually with the department.~~"

~~"(20) 'Service area' means a community service area."~~

**SECTION 3.**

Said title is further amended by striking paragraph (2) of Code Section 37-2-2, relating to definitions relative to the administration of mental health, developmental disabilities, addictive diseases, and other disability services, in its entirety and inserting in its place the following:

"(2) 'Community service board' means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6 ~~which provides one or more mental health, developmental disabilities, and addictive diseases services through contract with the department. Such community service board may enroll with the department to become a provider of specific mental health, developmental disabilities, and addictive diseases services with such services being negotiated and contracted annually with the department.~~

(2.1) 'Community service board area' means an area inclusive of the counties which fall within the boundaries of a community service board as designated by the division pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a community service board.

(2.2) 'Community service board service area' means a community service board area and any other county or portion thereof in which the community service board provides services."

**SECTION 4.**

Said title is further amended by striking subsection (b) of Code Section 37-2-3, relating to designation of boundaries for mental health, developmental disabilities, and addictive diseases regions, in its entirety and inserting in its place the following:

"(b) The division, with the approval of the commissioner, shall designate community service board areas, which shall serve as boundaries for the establishment ~~and operation~~ of community service boards within this state for the purpose of delivering disability services. The division shall be authorized to initiate the redesignation of such community service board area boundaries and may consider requests from a county or group of counties or a community service board or a group of community service boards for recommended changes to the boundaries of the community service board areas. The division, with the approval of the commissioner, is authorized to redesignate two or more contiguous community service board areas as a single community service board area upon the request of the community service boards serving such areas; and, if so authorized, the assets, equipment, and resources of such community service boards shall become the assets, equipment, and resources of the reconstituted community service board serving the successor single board area. It is the intent of the General Assembly not to limit a community service board to serving only those counties within the boundaries of its community service board area."

**SECTION 5.**

Said title is further amended by striking Code Section 37-2-6, relating to the creation, membership, participation, powers, and bylaws of community mental health, developmental diseases, and addictive diseases service boards, in its entirety and inserting in its place the following:

"37-2-6.

(a) Community service boards, ~~created in conformity with the service areas established pursuant to subsection (b) of Code Section 37-2-3, shall in existence on June 30, 2006, are re-created effective July 1, 2006, to provide one or more~~ mental health, developmental ~~disability~~ disabilities, and addictive ~~disease~~ diseases services ~~through contract with the department~~. Such community service boards may enroll and contract with the department to become a provider of ~~specific~~ mental health, developmental disabilities, and addictive diseases services ~~with such services being negotiated and contracted annually with the department~~. Such boards shall be considered public agencies. Each community service board shall be a public corporation and an instrumentality of the state ~~within the boundaries determined under subsection (b) of Code Section 37-2-3 served by the community service~~

board; provided, however, the liabilities, debts, and obligations of a community service board shall not constitute liabilities, debts, or obligations of the state or any county or municipal corporation and neither the state nor any county or municipal corporation shall be liable for any liability, debt, or obligation of a community service board. Each community service board re-created pursuant to this Code section is created for nonprofit and public purposes to exercise essential governmental functions. The re-creation of community service boards pursuant to this Code section shall not alter the provisions of Code Section 37-2-6.2 which shall apply to those re-created community service boards and their employees covered by that Code section and those employees' rights are retained.

(b) Each community service board shall consist of members appointed by the county governing authorities of the counties within the community service board area from ~~nomination by the boards of health of the counties within the boundaries of the community service board.~~ Membership on such community service board shall be determined as follows:

(1)(A) ~~Each~~ The governing authority of each county within the community service board area: with

(i) With a population of 50,000 or less according to the most recent United States decennial census ~~of 1990 or any future such census~~ shall appoint one member to the board; and

~~(2)(ii)~~ Each county with With a population of more than 50,000 according to the most recent United States decennial census ~~of 1990 or any future such census~~ shall appoint one member for each population increment of 50,000 or any portion thereof; or

~~(3)(B)~~ The appointment or appointments for each county shall be made by the county governing authority; In the event that the number of community service board member positions established in accordance with subparagraph (A) of this paragraph would exceed 13, the membership of such community service board pursuant to this subsection shall be appointed as follows and the bylaws shall be amended accordingly:

(i) For community service boards whose community service board area contains 13 or fewer counties, the board shall be set at 13 members and appointments to the board shall be made by the governing authority of each county within the community service board area in descending order from the county with the largest population to the county with the smallest population according to the most recent United States decennial census and this method shall be repeated until all 13 members of the community service board are appointed. If a county governing authority fails to make an appointment within a reasonable time, the next descending county by population shall make an appointment and the method shall continue; and

1 (ii) For community service boards whose community service board area contains  
2 more than 13 counties, one member of the community service board shall be  
3 appointed by the governing authority of each county within the community service  
4 board area, so that the number of members on the board is equal to the number of  
5 counties in the community service board area.

6 (4) The county governing authority shall appoint as at least one of its appointments a  
7 consumer of disability services, a child psychiatrist, a family member of a consumer,  
8 an advocate for disability services, or a local leader or businessperson with an interest  
9 in mental health, developmental disabilities, and addictive diseases; provided, however,  
10 that for counties with more than one appointment, the county governing authority shall  
11 seek to ensure that such appointments represent various groups and disability services;

12 ~~(5)(2) The chief executive or a designee of the chief executive of each county governing~~  
13 ~~authority or municipal governing authority which contributes funding or resources which~~  
14 ~~equal or exceed one-half of 1 percent of the budget allocation from the division for~~  
15 ~~disability services within the area governed by the community service board shall serve~~  
16 ~~as an ex officio, voting member of the community service board; and~~ In addition to the  
17 members appointed pursuant to paragraph (1) of this subsection, each community service  
18 board may appoint up to three additional members in order to address variation in the  
19 population sizes of counties or the financial contributions of counties within the  
20 community service board area or may authorize the elected chief executive officer of a  
21 county governing authority, by whatever name called, or an elected member of that  
22 county governing authority to serve on the community service board while holding such  
23 elective office. The bylaws of the community service board shall address the number of  
24 such additional members, if any, and the purpose or purposes for which such positions  
25 are created. The term of office of such additional members shall be the same as that of  
26 other members as provided in subsection (h) of this Code section; except that the term of  
27 office of a member in a position created to authorize the elected chief executive officer  
28 of a county governing authority, by whatever name called, or an elected member of that  
29 county governing authority to serve on the community service board shall be the same  
30 term of office as the elective term of office of said chief executive officer or said member  
31 of that county governing authority;

32 (3) Each community service board in existence on June 30, 2006, shall reconstitute its  
33 membership in accordance with the provisions of paragraphs (1) and (2) of this  
34 subsection, effective July 1, 2006, as follows:

35 (A) A community service board which increases or reduces the number of its members  
36 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws

1 adopted in accordance with subsection (h) of this Code section to reflect such increases  
2 or reductions. A community service board which reduces the number of its members  
3 shall designate which position or positions are to be eliminated and shall make  
4 reasonable efforts to eliminate any position or positions of members whose terms expire  
5 on or before June 30, 2006; provided, however, that members serving on a community  
6 service board whose terms do not expire on or before June 30, 2006, shall continue to  
7 serve out the terms of office to which they were appointed, regardless of whether this  
8 causes a board to temporarily exceed the maximum number of members. Any  
9 additional positions created in conformity with such paragraphs (1) and (2) may be  
10 filled on July 1, 2006, and the governing authority of a county that is otherwise  
11 authorized to appoint such additional community service board member or members  
12 may do so no sooner than May 1, 2006, but any person so appointed shall not take  
13 office until July 1, 2006. If a position on such community service board is not filled on  
14 July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date.  
15 A community service board is authorized to make whatever changes necessary in the  
16 terms of office of its members in order to achieve the staggering of terms required by  
17 subsection (h) of this Code section; and

18 (B) The term of office of an ex officio, voting member of a community service board  
19 holding membership on June 30, 2006, shall expire on June 30, 2006; and

20 ~~(6)~~(4)(A) A person shall not be eligible to be appointed to or serve on a community  
21 service board if such person is:

22 (i) A member of the regional planning board which serves the region in which that  
23 community service board is located;

24 (ii) An employee or board member of a public or private entity which contracts with  
25 the division to provide mental health, developmental disabilities, and addictive  
26 diseases services within the region; or

27 (iii) An employee of that community service board or employee or board member of  
28 any private or public group, organization, or service provider which contracts with or  
29 receives funds from that community service board.

30 (B) A person shall not be eligible to be appointed to or serve on a community service  
31 board if such person's spouse, parent, child, or sibling is a member of that community  
32 service board or a member, employee, or board member specified in division (i), (ii),  
33 or (iii) of subparagraph (A) of this paragraph. With respect to appointments by the  
34 same county governing authority, no person who has served a full term or more on a  
35 community service board may be appointed to a regional planning board until a period  
36 of at least two years has passed since the time such person served on the community

1 service board, and no person who has served a full term or more on a regional planning  
2 board may be appointed to a community service board until a period of at least two  
3 years has passed since the time such person has served on the regional planning board.

4 (5) A community service board created in accordance with this subsection shall  
5 reconstitute its membership in conformity with the most recent United States decennial  
6 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

7 (b.1) A county governing authority may appoint the school superintendent, a member of  
8 the board of health, a member of the board of education, or any other elected or appointed  
9 official to serve on the community service board provided that such person meets the  
10 qualifications of paragraph ~~(4)~~ (1) of subsection (b) of this Code section and such  
11 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office  
12 which begin July 1, 1994, or later, an employee of the Department of Human Resources or  
13 an employee of a county board of health may not serve on a community service board.

14 (c) In making appointments to the community service board, the ~~various~~ county governing  
15 authorities shall ensure that such appointments are reflective of the cultural and social  
16 characteristics, including gender, race, ethnic, and age characteristics, of the ~~regional~~  
17 community service board area and county populations. The county governing authorities  
18 are further encouraged to ensure that each disability group is ~~viably and capably~~  
19 represented on the community service board, and in making ~~nominations~~ for such  
20 appointments the ~~board of health shall~~ county governing authorities may consider  
21 suggestions from clinical professional associations as well as advocacy groups, ~~including~~  
22 ~~but not limited to the Georgia Mental Health Consumer Network, People First of Georgia,~~  
23 ~~the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the~~  
24 ~~American Association for Retired Persons, Georgians for Children, the National Mental~~  
25 ~~Health Association of Georgia, Georgia ARC Network, and the Georgia Council on~~  
26 ~~Substance Abuse and their local chapters and affiliates.~~ For the purposes of this  
27 subsection, 'advocacy groups' means any organizations or associations that advocate for,  
28 promote, or have an interest in disability services and are exempted as a charitable  
29 organization from federal income tax pursuant to Section 501(c) of the Internal Revenue  
30 Code; provided, however, that 'advocacy groups' shall not mean paid providers of disability  
31 services.

32 (c.1) A county governing authority in making appointments to the community service  
33 board shall take into consideration that at least one member of the community service board  
34 is an individual who is trained or certified in finance or accounting; provided, however, if  
35 after a reasonable effort at recruitment there is no person trained or certified in finance or  
36 accounting within the community service board area who is willing and able to serve, the



1 county governing authority may consider for appointment any other person having a  
2 familiarity with financial or accounting practices.

3 (d) Each county ~~within the boundaries established for~~ in which the governing authority of  
4 the county is authorized to appoint members to the community service board shall  
5 participate with the board in the operation of the program through the community service  
6 board. All contractual obligations, including but not limited to real estate leases, rentals,  
7 and other property agreements, other duties, rights, and benefits of the mental health,  
8 developmental disabilities, and addictive diseases service areas in existence on ~~December~~  
9 ~~31, 2002~~ June 30, 2006, shall continue to exist along with the new powers granted to the  
10 community service boards effective ~~January 1, 2003~~ July 1, 2006.

11 (e) Notwithstanding any other provision of this chapter, a community service board may  
12 be constituted in a method other than that outlined in subsection (b) of this Code section  
13 if:

14 (1) A board of health of a county desiring to be the lead county board of health for that  
15 county submits a written agreement to the division before July 1, 1993, to serve as the  
16 community service board and to continue providing disability services in that county after  
17 July 1, 1994, and the governing authority for that county adopts a resolution stating its  
18 desire to continue the provision of disability services through its board of health after July  
19 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

20 (2)(A) The lead county board of health for a community mental health, mental  
21 retardation, and substance abuse service area, as designated by the division on July 15,  
22 1993, but which area excludes any county which meets the requirements of paragraph  
23 (1) of this subsection, submits a written agreement to the division and to all counties  
24 within such service area to serve as the community service board for that area and to  
25 continue providing disability services after July 1, 1994, which agreement shall be  
26 submitted between July 31, 1993, and December 31, 1993; and

27 (B) Each county governing authority which is within the service area of a lead county  
28 board of health which has submitted an agreement pursuant to subparagraph (A) of this  
29 paragraph adopts a resolution stating its desire to continue the provision of disability  
30 services through such lead county board of health after July 1, 1994, and submits a copy  
31 of that resolution to the division, the regional board, and the lead county board of health  
32 between July 31, 1993, and December 31, 1993; and

33 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this  
34 subsection agrees in writing to appoint a director for mental health, mental retardation,  
35 and substance abuse other than the director of the county board of health as stipulated in  
36 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental

1 retardation, and substance abuse consisting of consumers, families of consumers, and  
2 representatives from each of the counties within the boundaries of the community service  
3 board, and to comply with all other provisions relating to the delivery of disability  
4 services pursuant to this chapter.

5 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to  
6 or on December 31, 1993, a community service board as provided in subsection (b) shall  
7 be established and appointed by January 31, 1994, to govern the provision of disability  
8 services within the boundaries of the community service board. Such community service  
9 board shall have the authority to adopt bylaws and undertake organizational and contractual  
10 activities after January 31, 1994; provided, however, that the community service board  
11 established pursuant to this Code section may not begin providing services to clients until  
12 July 1, 1994.

13 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
14 of this Code section, such community service board must operate as established at least  
15 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
16 the counties included under the jurisdiction of such a community service board may vote  
17 to reconstitute the community service board pursuant to the provisions of subsection (b) of  
18 this Code section by passage of a resolution by a majority of the county governing  
19 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
20 or each year thereafter.

21 (h) Each community service board shall adopt bylaws and operational policies and  
22 guidelines in conformity with ~~procedures established by the division~~ the provisions of this  
23 chapter. Those bylaws shall address board appointment procedures, initial terms of board  
24 members, the staggering of terms, quorum, a mechanism for ensuring that consumers of  
25 disability services and family members of consumers constitute ~~a majority~~ no less than 50  
26 percent of the ~~appointed~~ board members appointed pursuant to subsection (b) of this Code  
27 section, and a mechanism for ensuring equitable representation of the various disability  
28 groups. A quorum for the transaction of any business and for the exercise of any power or  
29 function of the community service board shall consist of a majority of the total number of  
30 filled board member positions appointed pursuant to subsection (b) of this Code section.  
31 A vote of the majority of such quorum shall be the act of the governing board of the  
32 community service board except where the bylaws of the community service board may  
33 require a greater vote. The regular term of office for each community service board  
34 member shall be three years. Vacancies on such board shall be filled in the same manner  
35 as the original appointment. For the purposes of this subsection, 'equitable representation  
36 of the various disability groups' shall mean that consumers and family members of such

1 consumers who constitute no less than 50 percent of the board members holding  
2 membership pursuant to subsection (b) of this Code section shall be appointed so as to  
3 assure that an equal number of such members to the fullest extent possible represents  
4 mental health, developmental disabilities, and addictive diseases interests.

5 (i) Each community service board which is composed of members who are appointed  
6 thereto by the governing authority of only one county shall have a minimum of six and no  
7 more than 13 members, not including ~~ex officio members~~ any additional members  
8 appointed pursuant to paragraph (2) of subsection (b) of this Code section, notwithstanding  
9 the provisions of subsection (b) of this Code section, which members in all other respects  
10 shall be appointed as provided in this Code section.

11 (j) No officer or employee of a community service board who has authority to take, direct  
12 others to take, recommend, or approve any personnel action shall take or threaten action  
13 against any employee of a community service board as a reprisal for making a complaint  
14 or disclosing information concerning the possible existence of any activity constituting  
15 fraud, waste, or abuse in or relating to the programs, operations, or client services of the  
16 board to the board or to a member of the General Assembly unless the complaint was made  
17 or the information was disclosed with the knowledge that it was false or with willful  
18 disregard for its truth or falsity. Any action taken in violation of this subsection shall give  
19 the public employee a right to have such action set aside in a proceeding instituted in the  
20 superior court.

21 (k) A member of a community service board who after notice that such member has failed  
22 to complete any required training prescribed by the department pursuant to paragraph (4)  
23 of subsection (b) of Code Section 37-1-20 continues such failure for 30 days may be  
24 removed from office by the remaining members of the community service board.

25 (l) A member of a community service board may resign from office by giving written  
26 notice to the executive director of the community service board. The resignation is  
27 irrevocable after delivery to such executive director but shall become effective upon the  
28 date on which the notice is received or on the effective date given by the member in the  
29 notice, whichever date is later. The executive director, upon receipt of the resignation,  
30 shall give notice of the resignation to the remaining members of the community service  
31 board and to the chief executive officer or governing authority of the county that appointed  
32 the member.

33 (m) The office of a member of a community service board shall be vacated upon such  
34 member's resignation, death, or inability to serve due to medical infirmity or other  
35 incapacity, removal by the community service board as authorized in this Code section or

upon such other reasonable condition as the community service board may impose under its bylaws.

(n) A member of a community service board may not enter upon the duties of office until such member takes the following oath of office:

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear or affirm that I will truly perform the duties of a member of the \_\_\_\_\_ Community Service Board to the best of my ability.

I do further swear or affirm:

(1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;

(2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;

(3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and

(4) That I will support the Constitution of the United States and this state.

\_\_\_\_\_  
Signature of member of

\_\_\_\_\_  
Community Service Board

\_\_\_\_\_  
Typed name of member of

\_\_\_\_\_  
Community Service Board

Sworn and subscribed

before me this \_\_\_\_\_ day

of \_\_\_\_\_, \_\_\_\_\_.

(SEAL)"

## SECTION 6.

Said title is further amended by striking Code Section 37-2-6.1, relating to the program director, staff, budget, and facilities of community service boards, in its entirety and inserting in its place the following:

"37-2-6.1.

(a) Each community service board shall employ an executive director to serve as its chief executive officer who shall direct the day-to-day operations of the community service board. Such executive director shall be appointed and removed by the community service board and shall appoint other necessary staff pursuant to an annual budget adopted by the board, which budget shall provide for securing appropriate facilities, sites, and professionals necessary for the provision of disability services. The community service board may delegate any power, authority, duty, or function to its executive director or other staff. The executive director or other staff is authorized to exercise any power, authority, duty, or function on behalf of the community service board.

(b) Each community service board, under the jurisdiction of its board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection. Each program may exercise the following power and authority:

(1) Each community service board may adopt bylaws for the conduct of its affairs; provided, however, that the community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;

(2) Each community service board may make and enter into all contracts necessary and incidental to the performance of its duties and functions;

(3) Each community service board may acquire by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

(4) Each community service board may contract to utilize the services of the Department of Administrative Services, the State Merit System of Personnel Administration, the state auditor, or any other agency of state, local, or federal government;

(5) Each community service board may provide, either independently or through contract with appropriate state or local governmental entities, the following benefits to its employees, their dependents, and survivors, in addition to any compensation or other benefits provided to such persons:

(A) Retirement, pension, disability, medical, and hospitalization benefits, through the purchase of insurance or otherwise, but medical and hospitalization benefits may only be provided through the Department of Community Health under the same conditions as provided for such benefits to state employees, and the Department of Community Health shall so provide if requested;

(B) Life insurance coverage and coverage under federal old age and survivors' insurance programs;

1 (C) Sick leave, annual leave, and holiday leave; and

2 (D) Any other similar benefits including, but not limited to, death benefits;

3 (6) Each community service board may cooperate with all units of local government  
4 ~~within the boundaries of~~ in the counties where the community service board provides  
5 services as well as neighboring regions and with the programs of other departments,  
6 agencies, and regional commissions and regional planning boards;

7 (7) Each community service board shall establish and maintain a personnel program for  
8 its employees and fix the compensation and terms of compensation of its employees;  
9 provided, however, each community service board shall comply with the provisions of  
10 Chapter 20 of Title 45, relating to state personnel administration, for as long as and to the  
11 extent that each employee of such board ~~shall be~~ who is a covered employee as defined  
12 in Code Section 45-20-2; and is subject to the rules and regulations of the ~~state merit~~  
13 ~~system~~ State Merit System of Personnel Administration remains in a covered position or  
14 as otherwise provided by law;

15 (8) Each community service board may receive and administer grants, gifts, contracts,  
16 moneys, and donations for purposes pertaining to the delivery of disability services;

17 (9) Each community service board may establish fees for the provision of disability  
18 services according to the terms of contracts entered into with the Department of Human  
19 Resources and the Department of Community Health ~~state-wide standards;~~

20 (10) Each community service board may accept appropriations, loans of funds, facilities,  
21 equipment, and supplies from ~~the~~ local governmental entities ~~within its boundaries~~ in the  
22 counties where the community service board provides services;

23 (11) Each member of the community service board may, upon approval of the executive  
24 director, receive reimbursement for actual expenses incurred in carrying out the duties of  
25 such office; provided, however, such reimbursement shall not exceed the ~~in conformance~~  
26 ~~with~~ rates and allowances set for state employees by the Office of Planning and Budget  
27 ~~and the same mileage~~ or the mileage allowance for use of a personal car as that received  
28 by all other state officials and employees or a travel allowance of actual transportation  
29 cost if traveling by public carrier;

30 (12) Each community service board shall elect a chairperson and vice chairperson from  
31 among its membership; ~~and the~~ The members shall also elect a secretary and treasurer  
32 from among its membership or may designate the executive director of the community  
33 service board to serve in one or both offices. Such officers shall serve for such terms as  
34 shall be prescribed in the bylaws of the community service board or until their respective  
35 successors are elected and qualified. No member shall hold more than one office of the  
36 community service board; except that the same person may serve as secretary and

1 treasurer. The bylaws of the community service board shall provide for any other officers  
2 of such board and the means of their selection, the terms of office of the officers, and an  
3 annual meeting to elect officers;

4 (13) Each community service board may have a seal and alter it;

5 (14) Each community service board may contract with the State Merit System of  
6 Personnel Administration regarding its personnel who remain in the classified service;

7 (15) Each community service board may establish fees, rates, rents, and charges for the  
8 use of facilities of the community service board for the provision of disability services  
9 ~~when approved by~~ in accordance with the terms of contracts entered into with the  
10 department;

11 (16) Each community service board may borrow money for any business purpose and  
12 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or  
13 obligation incurred by a community service board shall not be considered a debt, liability,  
14 or obligation of the state or any county or any municipality or any political subdivision  
15 of the state. A community service board may not borrow money as permitted by this  
16 Code section if the highest aggregate annual debt service requirements of the then current  
17 fiscal year or any subsequent year for outstanding borrowings of the community service  
18 board, including the proposed borrowing, exceed 15 percent of the total revenues of the  
19 community service board in its fiscal year immediately preceding the fiscal year in which  
20 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from  
21 taxation by the state or its political subdivisions. A state contract with a community  
22 service board shall not be used or accepted as security or collateral for a debt, liability,  
23 or obligation of a community service board without the prior written approval of the  
24 commissioner;

25 (17) Each community service board, to the extent authorized by law and the contract for  
26 the funds involved, may carry forward without lapse fund balances and establish  
27 operating, capital, and debt reserve accounts from revenues and grants derived from state,  
28 county, and all other sources; and

29 (18) Each community service board may operate, establish, or operate and establish  
30 facilities deemed by the community service board as necessary and convenient for the  
31 administration, operation, or provision of disability services by the community service  
32 board and may construct, reconstruct, improve, alter, repair, and equip such facilities to  
33 the extent authorized by state and federal law.

34 (c) Nothing shall prohibit a community service board from contracting with any county  
35 governing authority, private or other public provider, or hospital for the provision of  
36 disability services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

(e) A community service board does not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(f) A community service board shall not operate any facility for profit. A community service board may fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the community service board, will be sufficient to administer, operate, and provide the following:

(1) Disability services;

(2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating its facilities; and

(3) The creation and maintenance of reserves sufficient to meet principal and interest payments due on any obligation of the community service board.

(g) Each community service board may provide reasonable reserves for the improvement, replacement, or expansion of its facilities and services. Reserves under this subsection shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

(h) Each county and municipal corporation of this state is authorized to convey or lease property of such county or municipal corporation to a community service board for its public purposes. Any property conveyed or leased to a community services board by a county or municipal corporation shall be operated by such community service board in accordance with this chapter and the terms of the community service board's agreements with the county or municipal corporation providing such conveyance or lease.

(i) Each community service board shall keep books of account reflecting all funds received, expended, and administered by the community service board which shall be independently audited annually.

(j) ~~When approved by the commissioner, a~~ A community service board may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to community service boards, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the community service board, for the cooperative functioning of its members, or a combination thereof; provided, however, that no funds provided pursuant to a contract between the department and the



1 community service board may be used in the formation or operation of the nonprofit  
2 corporation, limited liability company, or other nonprofit entity. No community service  
3 board, whether or not it exercises the power authorized by this subsection, shall be relieved  
4 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and  
5 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
6 otherwise provided by law.

7 (k) No community service board shall employ or retain in employment, either directly or  
8 indirectly through contract, any person who is receiving a retirement benefit from the  
9 Employees' Retirement System of Georgia except in accordance with the provisions of  
10 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is  
11 employed as of July 1, 2004, may continue to be employed.

12 (l) A community service board may join or form and operate, either directly or indirectly,  
13 one or more networks of community service boards, disability professionals, and other  
14 providers of disability services to arrange for the provision of disability services through  
15 such networks; to contract either directly or through such networks with the Department  
16 of Community Health to provide services to Medicaid beneficiaries; to provide disability  
17 services in an efficient and cost-effective manner on a prepaid, capitation, or other  
18 reimbursement basis; and to undertake other disability related managed care activities. For  
19 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other  
20 provision of law, a community service board shall be permitted to and shall comply with  
21 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to  
22 the activities undertaken by the community service board or by a community service board  
23 under this subsection or subsection (j) of this Code section. No community service board,  
24 whether or not it exercises the powers authorized by this subsection, shall be relieved of  
25 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public  
26 records, unless otherwise provided by law. Any licensed health care provider shall be  
27 eligible to apply to become a participating provider under such a plan or network that  
28 provides coverage for health care or disability services which are within the lawful scope  
29 of the provider's license, but nothing in this Code section shall be construed to require any  
30 such plan or network to provide coverage for any specific health care or disability service."

## 31 **SECTION 7.**

32 Said title is further amended by adding after Code Section 37-2-6.4, relating to reconstituting  
33 or converting of organizational structure, a new Code section to read as follows:

34 "37-2-6.5.

1 (a) By joint action of the membership of a community service board created pursuant to  
2 Code Section 37-2-6 and the governing authority of each county ~~that contributes funds or~~  
3 ~~resources to such board~~ within the community service board area, such community service  
4 board may cease operations; provided, however, such community service board shall notify  
5 the commissioner at least 90 days in advance of the meeting of the community service  
6 board in which such action is to be taken. Such joint action shall indicate the date on which  
7 the community service board shall cease operations.

8 (b) Upon receipt of notification that a community service board intends to cease  
9 operations, the commissioner shall notify the chairperson and executive director of such  
10 community service board and the governing authority of each county within the community  
11 service board area of such board that:

12 (1) The department, after securing the approval of the Governor, intends to appoint a  
13 manager or management team to manage and operate the programs and services of the  
14 community service board in accordance with the provisions of paragraph (1) of  
15 subsection (c) of Code Section 37-2-10 until the division shall determine:

16 (A) That such community service board should continue in operation, provided one or  
17 more members appointed to such board in accordance with subsection (b) of Code  
18 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code  
19 Section 37-2-10, and the division, acting on behalf of the membership of the community  
20 service board, nominates a successor to a removed member and advises the county  
21 governing authority that appointed such removed member to appoint a successor;

22 (B) That all of the members of such community service board appointed in accordance  
23 with subsection (b) of Code Section 37-2-6 shall be removed and such community  
24 service board shall be reconstituted; and that the division shall assist the county  
25 governing authorities in making appointments to the new community service board; or

26 (C) In the case where the membership of such community service board is the  
27 membership of a county board of health designated in accordance with Code Section  
28 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
29 community service board should be removed and the membership of the community  
30 service board be reconstituted in accordance with subsection (b) of Code Section  
31 37-2-6;

32 (2) The division, with the approval of the commissioner, intends to redesignate the  
33 boundaries of the community service board area served by such board pursuant to  
34 paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the boundaries of  
35 an adjacent community service board area served by another community service board  
36 to include the counties in the community service board area served by the community

1 service board that intends to cease operations so that the community service board serving  
2 such adjacent area may assume responsibility for the provision of disability services  
3 within such counties;

4 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the  
5 governing authority of a county within the community service board area of such board  
6 authorize the membership of the board of health of such county to serve as the  
7 membership of such community service board; or

8 (4) The department, after securing the approval of the Governor, intends to appoint a  
9 manager or management team to manage and operate the programs and services of the  
10 community service board until such time as arrangements can be made to secure one or  
11 more alternate service providers to assume responsibility for the provision of services  
12 previously provided by the community service board.

13 (c) If a community service board ceases operation and is succeeded by another community  
14 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),  
15 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code  
16 section, the division shall make a determination about the disposition of all assets,  
17 equipment, and resources purchased with state or federal funding in the possession of the  
18 predecessor community service board.

19 (d) If a community service board ceases operation and one or more alternate service  
20 providers assume responsibility for the provision of services previously provided by the  
21 community service board pursuant to paragraph (4) of subsection (b) of this Code section,  
22 the department shall petition the superior court of the county in which the principal office  
23 of that community service board was located for appointment of a receiver of the assets of  
24 the community service board for the protection of the board's creditors and the public. The  
25 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after  
26 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities  
27 of the community service board. The court shall then decree that the board be dissolved.  
28 Upon completion of the liquidation, any surplus remaining after paying all costs of the  
29 liquidation shall be distributed, as determined by the court, to the agencies, entities, or  
30 providers providing disability services in the community service board area formerly served  
31 by the community service board which ceased operations. At no time shall any community  
32 service board upon ceasing operations convey any of its property, except as may be  
33 otherwise authorized by a superior court in this subsection, to any private person,  
34 association, or corporation."

## 35 SECTION 8.

Said title is further amended by striking Code Section 37-2-10, relating to director's emergency powers upon failure of community service board to establish and administer progress, in its entirety and inserting in its place the following:

"37-2-10.

(a) Notwithstanding any other provisions of the law, the director with the concurrence of the commissioner and the Governor is authorized to establish and administer community programs on an emergency basis in the event one or more community service boards fail to assume responsibility for the establishment and implementation of an adequate range of disability services or to provide appropriate disability services as determined by the division or substantially breach their contracts with the department pursuant to this chapter.

(b) Upon notification by a community service board of an inability to provide an adequate range of disability services or to provide appropriate services, the director, with concurrence of the commissioner and the Governor, may:

(1) Assume responsibility for the administration and operation of all of the community programs operated by or through such board and, in which case, the programs shall become department programs; the department shall acquire the assets of the community service board; and the community service board employees shall become employees of the department; or

(2) Assume responsibility for the administration and operation of one or more of the community programs operated by or through such board, in which case, such program or programs shall become a department program or programs; the department shall acquire those assets of the community service board assigned to such program or programs; and the employees of such program or programs shall become employees of the department.

Any community service board programs not transferred to the department shall continue to be operated by the community service board and the employees for such programs shall remain community service board employees; or,

~~(3)(c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the director with the concurrence of the commissioner and the Governor is authorized to~~  
~~Appoint~~ appoint a manager or management team to manage and operate the programs and services of the community service board ~~until such time as a determination has been made that the circumstances or conditions causing the appointment of a manager or management team have been sufficiently corrected. Upon such a determination, the authority to manage and operate the programs and services of the community service board shall be returned to the community service board. if the director finds that the~~  
community service board:

1 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease  
2 operations;

3 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a  
4 contract with the department;

5 (C) Misused state or federal funds;

6 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

7 (E) Endangered the life, safety, or health of a consumer served by the community  
8 service board;

9 (F) Failed to keep fiscal records and maintain proper control over its assets;

10 (G) Failed to respond to a substantial deficiency in a review or audit;

11 (H) Otherwise substantially failed to comply with this chapter or the rules or standards  
12 of the department or division; or

13 (I) No longer has the fiscal ability to continue to provide contracted services and  
14 without the intervention of the department, continued provision of disability services  
15 to consumers in the service area is in immediate jeopardy.

16 (2) In order to carry out the provisions of paragraph (1) of this subsection, the director  
17 shall give written notice to the community service board regarding the appointment of a  
18 manager or management team and the circumstances on which the appointment is based.  
19 The director may require the community service board to pay costs incurred by the  
20 manager or management team.

21 (3) Subject to the determination of the director, a manager or management team  
22 appointed pursuant to this subsection may:

23 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,  
24 operation, or the management of the community service board;

25 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee  
26 of the community service board;

27 (C) Reallocate the resources and manage the assets of the community service board;

28 (D) Require that a financial transaction, expenditure, or contract for goods and services  
29 be approved by the manager or management team;

30 (E) Redesign, modify, or terminate a program or service of the community service  
31 board;

32 (F) Direct the members of the community service board, the executive director, chief  
33 financial officer, or any other administrative or program manager to take an action;

34 (G) Exercise a power, duty, authority, or function of the community service board as  
35 authorized by this chapter;

1 (H) Recommend to the director the removal of a member or the executive director of  
2 the community service board; and the provisions of any law to the contrary  
3 notwithstanding, the director may remove such member or executive director from  
4 office; and

5 (I) Report at least monthly to the director on actions taken.

6 (4) A manager or management team appointed pursuant to this subsection may not use  
7 or dispose of any asset or funds contributed to the community service board by the  
8 governing authority of a county or municipal corporation without the approval of such  
9 governing authority.

10 (5) If a manager or management team is appointed pursuant to this Code section, the  
11 department may:

12 (A) Upon a determination that the conditions that gave rise to the appointment of a  
13 manager or management team pursuant to this subsection have been met and that such  
14 manager or management team is no longer necessary, terminate the authority delegated  
15 to such manager or management team and restore authority to the community service  
16 board to manage and operate the services and programs of the community service  
17 board; or

18 (B) Operate and manage the programs of the community service board until such time  
19 as arrangements can be made to secure one or more alternative service providers to  
20 assume responsibility for the provision of services previously provided by the  
21 community service board. If this option is exercised, the department shall petition the  
22 appropriate superior court for appointment of a receiver pursuant to subsection (d) of  
23 Code Section 37-2-6.5.

24 (6) Nothing in this subsection shall be construed to prohibit the department from  
25 canceling a contract with a community service board."

## 26 **SECTION 9.**

27 Said title is further amended by striking subsections (b) and (c) of Code Section 37-2-11,  
28 relating to allocation of available funds for services, in its entirety and inserting in its place  
29 the following:

30 "(b) Fees generated, if any, by hospitals, community service boards, and other private and  
31 public providers, providing services under contract or purview of the ~~regional offices~~  
32 division, shall be reported to the ~~regional offices~~ division and applied wherever appropriate  
33 against the cost of providing, and increasing the quantity and quality of, disability services;  
34 provided, however, that income to a community service board derived from fees may be  
35 used to further the purposes of such community service board as found in Code Section

1 37-3-6.1, subject to appropriations. The division shall be responsible for developing  
2 procedures to properly account for the collection, remittance, and reporting of generated  
3 fees. The ~~regional offices~~ division shall work with the community service boards and other  
4 public or private providers to develop an appropriate mechanism for accounting for the  
5 funds and resources contributed to local disability services by counties and municipalities  
6 within the area. Such contributions are not required to be submitted to either the  
7 community service boards or the ~~regional offices~~ division; however, appropriate  
8 documentation and accounting entries shall make certain that the county or municipality  
9 is credited, and if necessary compensated, appropriately for such contribution of funds or  
10 resources.

11 (c) No person shall be denied disability services provided by the state as defined in this  
12 chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however,  
13 unless otherwise prohibited by law or contract, providers of disability services may deny  
14 nonemergency disability services to any person who is able to pay, but who refuses to pay.  
15 The division shall develop a state-wide sliding fee scale for the provision of disability  
16 services and shall promulgate standards that define emergency disability services and  
17 refusal to pay."

#### 18 **SECTION 10.**

19 Nothing in this Act shall be construed to affect or abate any right accrued or vested prior to  
20 July 1, 2006, or any action or proceeding commenced prior to July 1, 2006, under any law  
21 amended or repealed by this Act.

#### 22 **SECTION 11.**

23 This Act shall become effective July 1, 2006, except that those provisions which authorize  
24 community service boards to amend their bylaws and authorize county governing authorities  
25 to appoint no sooner than May 1, 2006, any community service board members to take office  
26 on July 1, 2006, shall become effective upon the approval of this Act by the Governor or  
27 upon its becoming law without such approval.

#### 28 **SECTION 12.**

29 All laws and parts of laws in conflict with this Act are repealed.